

ESTTA Tracking number: **ESTTA374484**Filing date: **10/21/2010**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Hat World, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	7555 Woodland Drive Indianapolis, IN 46278 UNITED STATES		

Attorney information	David L. May NIXON PEABODY LLP 401 9th Street NW, Suite 900 Washington, DC 20004 UNITED STATES nptm@nixonpeabody.com, was.managing.clerk@nixonpeabody.com, dmay@nixonpeabody.com, lgolden@nixonpeabody.com, gmccreadie@nixonpeabody.com Phone:202-585-8000
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**Registration Subject to Cancellation**

Registration No	3852561	Registration date	09/28/2010
Registrant	Gayden, Leigh A P.O. Box 231861 Centreville, VA 20120 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 041. First Use: 2006/09/01 First Use In Commerce: 2008/06/01  
All goods and services in the class are cancelled, namely: Basketball instruction services; providing a website featuring basketball instruction and information

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	1951224	Application Date	02/27/1995
Registration Date	01/23/1996	Foreign Priority Date	NONE
Word Mark	THE ROCK		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 028. First use: First Use: 1986/06/01 First Use In Commerce: 1986/06/01 basketballs and basketball equipment, namely basketball backboards, basketball rims, and inflatable game balls

U.S. Registration No.	2719009	Application Date	06/06/2002
Registration Date	05/27/2003	Foreign Priority Date	NONE

Word Mark	THE ROCK
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 028. First use: First Use: 1998/03/00 First Use In Commerce: 1998/03/00 ATHLETIC SPORTING GOODS, NAMELY, SOFTBALLS AND BASEBALLS
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U.S. Registration No.	3254394	Application Date	06/21/2004
Registration Date	06/26/2007	Foreign Priority Date	NONE


Word Mark	THE ROCK
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 009. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 SPORT WHISTLES Class 016. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 STATIONERY-TYPE PORTFOLIOS, SCORING BOOKS, AND CLIPBOARDS Class 018. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 BAGS, NAMELY, TRAVEL BAGS, ATTACHE BAGS, DUFFEL BAGS, TOTE BAGS, CARRY-ALL BAGS, AND ATHLETIC BAGS
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	<p>Class 022. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 LANYARDS FOR HOLDING KEYS AND WHISTLES</p> <p>Class 025. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 CLOTHING, NAMELY, JACKETS, SWEATERS, SHIRTS, T-SHIRTS, SWEATSHIRTS, SPORT SHIRTS, SHORTS, SWEAT SHORTS, SPORT SHORTS, PANTS, SWEAT PANTS, SPORT PANTS, HATS, CAPS, SWEATERS, AND ATHLETIC UNIFORMS</p> <p>Class 028. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 ATHLETIC EQUIPMENT, NAMELY, BALL RACKS, BASKETBALLS, BASKETBALL RIMS, AND BAGS FOR CARRYING SPORT BALLS</p>
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U.S. Registration No.	3333365	Application Date	10/03/2006
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	THE ROCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Basketballs		

U.S. Registration No.	1353316	Application Date	04/18/1983
Registration Date	08/06/1985	Foreign Priority Date	NONE
Word Mark	THE ROCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1960/12/15 First Use In Commerce: 1960/12/15 EDUCATIONAL SERVICES AT THE COLLEGIATE LEVEL NAMELY UNDERGRADUATE, GRADUATE AND CONTINUING EDUCATION SERVICES, AND ENTERTAINMENT SERVICES NAMELY, THEATRICAL PRODUCTIONS, MUSICAL PERFORMANCES, ATHLETIC EXHIBITIONS, INTRAMURAL, CLUB AND INTER--COLLEGIATE ATHLETIC CONTESTS		

U.S. Registration No.	1328626	Application Date	04/18/1983
Registration Date	04/02/1985	Foreign Priority Date	NONE
Word Mark	THE ROCK		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1980/12/01 First Use In Commerce: 1980/12/01 Clothing-Namely, T-Shirts, Sweat Shirts, Football Shirts, Baseball Shirts, Sweat Pants, Shorts, Sweaters, Jackets, Hats, Golf Shirts, Scarves, Robes and Nightshirts

U.S. Registration No.	1534487	Application Date	09/01/1988
Registration Date	04/11/1989	Foreign Priority Date	NONE
Word Mark	CITY ROCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1984/08/00 First Use In Commerce: 1984/08/00 BASKETBALLS		


U.S. Registration No.	2049744	Application Date	05/12/1995
Registration Date	04/01/1997	Foreign Priority Date	NONE
Word Mark	CITY ROCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/08/01 First Use In Commerce: 1996/08/01 athletic clothing, namely, shirts, including T-shirts, golf shirts, sweat shirts and sport shirts; shorts; including cycling shorts, running shorts, and sweat shorts; pants, including sweat pants; swim suits; jackets; parkas; ponchos; sweaters; vests; hats; caps; headbands; warm-up suits; shoes; socks; gloves; belts; and team uniforms		


U.S. Registration No.	2804533	Application Date	02/27/2003
Registration Date	01/13/2004	Foreign Priority Date	NONE
Word Mark	CITY ROCK		

Design Mark	<b>CITY ROCK</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/08/01 First Use In Commerce: 1996/08/01 ATHLETIC CLOTHING, NAMELY, SHIRTS, INCLUDING T-SHIRTS, GOLF SHIRTS, SWEAT SHIRTS AND SPORT SHIRTS; SHORTS, INCLUDING CYCLING SHORTS, RUNNING SHORTS, AND SWEAT SHORTS; PANTS, INCLUDING SWEAT PANTS; SWIM SUITS; JACKETS; PARKAS; PONCHOS; SWEATERS; VESTS; HATS; CAPS; HEADBANDS; WARM-UP SUITS; ATHLETIC SHOES; SOCKS; GLOVES; BELTS; AND TEAM UNIFORMS


U.S. Registration No.	3333366	Application Date	10/03/2006
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	THE BIG ROCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Basketballs		

U.S. Registration No.	3408199	Application Date	04/10/2007
Registration Date	04/08/2008	Foreign Priority Date	NONE
Word Mark	KEEP ON ROCKIN'		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2006/01/12 First Use In Commerce: 2006/01/12 Retail services, namely, online retail store services and mail order catalog services, featuring sporting equipment and accessories		

U.S. Registration No.	3815075	Application Date	06/17/2008
Registration Date	07/06/2010	Foreign Priority Date	NONE
Word Mark	KEEP ON ROCKIN'		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/00/00 First Use In Commerce: 2007/00/00 Clothing, namely, shirts, t-shirts, sweatshirts, pants, sweatpants, shorts, hats, and caps		

U.S. Application No.	78722281	Application Date	09/28/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE ROCK		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Sport whistles</p> <p>Class 014. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Jewelry watches</p> <p>Class 016. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Stationery-type portfolios; scoring books; and clipboards</p> <p>Class 018. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Bags, namely, travel bags, attache bags, duffel bags, tote bags, carry-all bags, and athletic bags</p> <p>Class 022. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Lanyards for holding keys and whistles</p> <p>Class 028. First use: First Use: 1998/06/01 First Use In Commerce: 1998/06/01 Athletic equipment, namely, ball racks, and bags for carrying sport balls; footballs</p> <p>Class 035. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 Mail order catalog services and mail order services featuring sporting equipment, sports memorabilia, athletic equipment, athletic and sports uniforms and shoes, clothing, luggage and carrying bags; and wholesale distributorship services featuring sporting equipment, sports memorabilia, athletic equipment, athletic and sports uniforms and shoes, clothing, luggage and carrying bags; retail store services featuring sporting equipment, sports memorabilia, athletic equipment, athletic and sports uniforms and shoes, clothing, luggage and carrying bags; Online retail store services in the field of sports and sports equipment; Retail store services in the field of sports and sports equipment</p>

Attachments	<p>76418496#TMSN.gif ( 1 page )( bytes )  76598447#TMSN.gif ( 1 page )( bytes )  77012684#TMSN.jpeg ( 1 page )( bytes )  74675270#TMSN.gif ( 1 page )( bytes )  76493263#TMSN.gif ( 1 page )( bytes )  77012706#TMSN.jpeg ( 1 page )( bytes )  77153127#TMSN.jpeg ( 1 page )( bytes )  77500856#TMSN.jpeg ( 1 page )( bytes )  78722281#TMSN.jpeg ( 1 page )( bytes )  Petition_to_Cancel_HANDLE_THE_ROCK_Reg_n.pdf ( 5 pages )(14529 bytes )</p>
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/ldg5x/
Name	Laura D. Golden
Date	10/21/2010



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Matter of:

Hat World, Inc.	)	
	)	
v.	)	
	)	
Leigh Gayden	)	Proceeding No. _____
	)	
Applicant	)	
	)	

Registration No.: 3,852,561  
Mark: HANDLE THE ROCK  
Filed: October 20, 2009  
Registered: September 28, 2010

**PETITION TO CANCEL**

Hat World, Inc. ("Petitioner"), a Minnesota corporation with its principal place of business at 7555 Woodland Drive, Indianapolis, Indiana 46278, herein petitions to cancel the above-cited registration of Leigh Gayden ("Registrant"), a United States individual with an address of record at P.O. Box 231861 Centreville, VIRGINIA 20120, and hereby opposes such registration.

As grounds for its Petition to Cancel, Petitioner alleges as follows:

1. Petitioner is the owner of valid, subsisting and incontestable U.S. Trademark Registration No. 1,951,224 for the mark THE ROCK for use with *Basketballs and basketball equipment, namely basketball backboards, basketball rims, and inflatable game balls.*
2. Petitioner is the owner of valid, subsisting and incontestable U.S. Trademark Registration No. 2,719,009 for the mark THE ROCK use with *Athletic sporting goods namely, baseballs and softballs.*
3. Petitioner is the owner of U.S. Trademark Registration No. 3,254,394 for the mark THE ROCK & Design with a wide variety of goods and services, including, *inter alia*, the Class 28 goods, *athletic equipment, namely, ball racks, basketballs, basketball rims, and bags for carrying sport balls.*

4. Petitioner is the owner of U.S. Trademark Registration No. 3,333,365 for the mark THE ROCK & Design with the Class 28 goods, *basketballs*.

5. Petitioner is the licensee of the valid and incontestable U.S. Trademark Registration No. 1,353,316 for the mark THE ROCK for use with *Entertainment services including, athletic exhibitions, intramural, club and intercollegiate athletic contests*.

6. Petitioner is also the licensee of the valid and incontestable U.S. Trademark Registration No. 1,328,626 for the mark THE ROCK for use with *Clothing-Namely, T-Shirts, Sweat Shirts, Football Shirts, Baseball Shirts, Sweat Pants, Shorts, Sweaters, Jackets, Hats, Golf Shirts, Scarves, Robes and Nightshirts*.

7. Petitioner is the owner of the valid and incontestable U.S. Trademark Registration No. 1,534,487 for the mark CITY ROCK with the Class 28 goods, *basketballs*.

8. Petitioner is the owner of the valid and incontestable U.S. Trademark Registration No. 2,049,744 for the mark CITY ROCK & Design with the Class 25 goods, *athletic clothing, namely, shirts, including T-shirts, golf shirts, sweat shirts and sport shirts; shorts; including cycling shorts, running shorts, and sweat shorts; pants, including sweat pants; swim suits; jackets; parkas; ponchos; sweaters; vests; hats; caps; headbands; warm-up suits; shoes; socks; gloves; belts; and team uniforms*.

9. Petitioner is the owner of valid and incontestable U.S. Trademark Registration No. 2,804,533 for the mark CITY ROCK with the Class 25 goods, *athletic clothing, namely, shirts, including T-shirts, golf shirts, sweat shirts and sport shirts; shorts; including cycling shorts, running shorts, and sweat shorts; pants, including sweat pants; swim suits; jackets; parkas; ponchos; sweaters; vests; hats; caps; headbands; warm-up suits; shoes; socks; gloves; belts; and team uniforms*.

10. Petitioner is the owner of U.S. Trademark Registration No. 3,333,366 for the mark THE BIG ROCK & Design Class 28 goods, *basketballs*.

11. Petitioner is the owner of U.S. Trademark Registration No. 3,408,199 for the mark KEEP ON ROCKIN' with the Class 35 services, *retail services, namely, online retail store services and mail order catalog services, featuring sporting equipment and accessories*.

12. Petitioner is the owner of U.S. Trademark Registration No. 3,815,075 for the mark KEEP ON ROCKIN' with the Class 25 goods, *clothing, namely, shirts, t-shirts, sweatshirts, pants, sweatpants, shorts, hats, and caps*.

13. Petitioner is the owner of U.S. Trademark Application No. 78/722,281 for the mark THE ROCK with a wide variety of goods and services, including, *inter alia*, the Class 28 goods, *athletic equipment, namely, ball racks, and bags for carrying sport balls; footballs; and the Class 35 services, mail order catalog services and mail order services, wholesale distributorship services, and retail store services, all featuring sporting equipment, sports memorabilia, athletic equipment, athletic and sports uniforms and shoes, clothing, luggage and carrying bags; and online retail store services and retail sports services in the field of sports and sports equipment*, filed on September 28, 2005, prior to Applicant's filing date.

14. U.S. Registration Nos. 1,328,626; 1,353,316; 1,534,487; 1,951,224; 2,049,744; 2,719,009; 2,804,533; 3,254,394; 3,333,365; 3,333,366; 3,408,199; 3,815,075 and U.S. Application Serial No. 78/722,281 shall hereinafter be referred to collectively as the "ROCK Marks."

15. On October 20, 2009, Registrant filed, under Trademark Act § 1(a) and claiming a first use date of September 1, 2006, U.S. Trademark Application No. 77/853,386 for the mark HANDLE THE ROCK, for use with "*Providing a website featuring basketball instruction and information*" in Class 41 ("the Subject Mark"). The application matured into U.S. Registration No. 3,852,561.

16. Petitioner and its predecessors in interest have expended considerable resources in the marketing and sales of goods and services bearing the ROCK Marks. As a result of its efforts, Petitioner and its predecessors in interest have established substantial consumer recognition and goodwill in and to the ROCK Marks.

17. Petitioner has used in commerce, and has established prior rights in the ROCK Marks in connection with at least the goods and services set forth within its aforementioned registrations long prior to any date Registrant can rely on for use of the Subject Mark.

18. Registrant's use and registration of the Subject Mark creates a likelihood of confusion, mistake and/or deception among consumers, within the meaning of Trademark Act § 2(d), all to the detriment of Petitioner.

19. In view of the foregoing, Petitioner believes that it has been damaged and will continue to be damaged by virtue of Registrant's registration and use of the Subject Mark, as set forth in U.S. Registration No. 3,852,561.

WHEREFORE, Petitioner prays that this Petition be sustained and that U.S.

Registration No. 3,852,561 be cancelled.

Date: October 21, 2010

Respectfully submitted,

**HAT WORLD, INC.**

/david l. may/

David L. May, Esq.

Gina McCreadie, Esq.

Laura D. Golden, Esq.

Attorneys for Petitioner

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served via first-class mail, postage prepaid, on October 21, 2010, on the following:

Leigh A. Gayden  
P.O. Box 231861  
Centreville, VIRGINIA 20120

/Sheryl S. Harris/  
Sheryl Harris